

OGC Has Reviewed

Chief, Personnel

4 January 1949

General Counsel

Delegations of Authority

1. Reference is made to proposed delegations of authority dated 24 July 1947, authorizing designated personnel to administer the Oath of Office to civilian employees of CIA in accordance with the provisions of 5 U.S.C. 16.

2. In discussing the publication of the proposed delegations, two questions have arisen: (1) whether there exists any legal requirement that delegations of the type here concerned be by name rather than by position, and (2) whether the Vandenberg delegations have been superseded by subsequent delegations.

3. There is scant authority to support the proposition that the authority to administer the Oath of Office must be delegated by name rather than by position. The General Accounting Office, in an unpublished decision (B-67388), dated 1 August 1947, concurred in a conclusion of the General Counsel of the Immigration and Naturalization Service that employees of the Immigration and Naturalization Service in Canada may be designated to administer oaths under the pertinent sections of the U.S.C. The specific question involved in this case was whether employees in Canada might be designated to administer oaths, in view of which the proposition of delegation by name rather than by position follows only by implication. Admittedly, Civil Service Commission Departmental Circular No. 144, dated 5 November 1943, as amended by supplement dated 6 November 1944, argues for a strict construction of the pertinent statute and concludes that the delegations must be by name rather than by position. However, the Circular and the supplement are considered obsolete by the Civil Service Commission. Any questions of statutory construction are of primary interest to G.A.O.

4. General government practice appears to favor delegation by name rather than by position in so far as the pertinent statute is concerned, a specific example of which is the Internal Rules and Regulations of Administration issued by the GAO. It is the opinion of this office that there is no legal requirement to delegate by name rather than by position, but in the interest of uniformity in administration, it may be desirable at this time to delegate by name where circumstances so require.

5. The Vandenberg delegations fall into two categories, general, and specific. With respect to general delegations, it is apparent that subsequent general delegations have, as a matter of practice, expressly rescinded all preceding general delegations.

However, specific delegations are, by their terms, determinable upon the happening of some subsequent event such as notice of termination of authority, separation of the employee from the Agency, or specific rescission of the delegation of authority. It is the opinion of this office, therefore, that the specific delegations of authority issued by General Vandenberg have continued in full force and effect. It is believed that the continuity of interest is traceable, irrespective of organizational adjustments.

6. However, in view of the organizational adjustments, it may now be desirable to rescind all prior specific delegations of authority and to publish new ones which may include the authority to administer any other oath required by law in connection with Civil Service matters. This office does not recommend that the proposed delegations be retroactive unless a designated person requires authority to perform certain actions not contemplated by the specific delegations.

LAWRENCE R. HOUSTON

Enclosures

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